

106TH CONGRESS
2D SESSION

S. 3130

To provide for post-conviction DNA testing, to facilitate the exchange by law enforcement agencies of DNA identification information relating to felony offenders, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28 (legislative day, SEPTEMBER 22), 2000

Mr. HATCH (for himself, Mr. LOTT, Mr. NICKLES, Mr. MACK, Mr. MCCAIN, Mr. GRASSLEY, Mr. THURMOND, Mr. KYL, Mr. ABRAHAM, Mr. DEWINE, Mr. SESSIONS, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Ms. COLLINS, Mr. FITZGERALD, Mr. HELMS, Mr. SANTORUM, Mr. HAGEL, Mr. SHELBY, Mr. WARNER, Mr. INHOFE, Ms. SNOWE, Mr. ALLARD, Mr. BROWNBACK, Mr. GRAMS, Mr. BENNETT, Mr. COCHRAN, Mr. HUTCHINSON, and Mr. FRIST) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for post-conviction DNA testing, to facilitate the exchange by law enforcement agencies of DNA identification information relating to felony offenders, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Criminal Justice Integrity and Law Enforcement Assist-
4 ance Act”.

5 (b) TABLE OF CONTENTS.—The table of contents for
6 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—POST-CONVICTION DNA TESTING IN FEDERAL COURT

Sec. 101. Post-conviction DNA testing.

Sec. 102. Repeal.

TITLE II—CONVICTED OFFENDER DNA INDEX SYSTEM

Sec. 201. Short title.

Sec. 202. Elimination of convicted offender DNA backlog.

Sec. 203. Elimination of State and local unsolved casework DNA backlog.

Sec. 204. Elimination of FBI unsolved casework DNA backlog.

Sec. 205. Missing persons database.

Sec. 206. DNA identification of Federal, District of Columbia, and military fel-
ony offenders.

7 **SEC. 2. FINDINGS.**

8 Congress makes the following findings:

9 (1) In the last decade, deoxyribonucleic acid
10 testing (referred to in this Act as “DNA testing”)
11 has emerged as the most reliable forensic technique
12 for identifying criminals when biological evidence of
13 the crime is obtained. DNA testing “has been ac-
14 knowledged by the courts as well as the national sci-
15 entific community for its extraordinary degree of ac-
16 curacy in matching cellular material to individuals”.
17 Commonwealth v. Brison, 618 A.2d 420 (S. Ct. Pa.
18 1992).

1 (2) In many cases, DNA testing of biological
2 evidence can reveal relevant evidence of a crime, and
3 in a narrow class of cases, it can conclusively prove
4 the guilt or innocence of a criminal defendant. In
5 many other cases, however, DNA testing can provide
6 only inconclusive or irrelevant evidence.

7 (3) While DNA testing is standard in pretrial
8 investigations in every State today, it was not widely
9 available prior to the early 1990's. In addition, new
10 DNA testing technologies have been developed that
11 can accurately examine minute samples and obtain
12 more discriminating results than earlier forms of
13 DNA testing.

14 (4) DNA testing is possible on biological evi-
15 dence that is more than a decade old. Because bio-
16 logical evidence, such as semen or hair from a rape,
17 is often preserved by authorities years after trial, it
18 has become possible to submit preserved biological
19 evidence to DNA testing. In cases that were tried
20 before DNA technology existed, and in which biologi-
21 cal evidence was preserved after conviction, post-con-
22 viction testing is feasible.

23 (5) Even within this narrow class of cases that
24 occurred before DNA technology existed, and in
25 which biological evidence was preserved, post-convic-

1 tion testing is appropriate only if the identity of the
2 perpetrator was an issue at trial, and DNA testing
3 has the potential to exonerate the defendant of the
4 crime for which he was convicted of beyond a rea-
5 sonable doubt. To authorize post-conviction testing
6 in a broader category of cases would lead to a waste
7 of scarce prosecutorial and judicial resources without
8 increasing the likelihood of determining whether an
9 innocent person was wrongfully convicted.

10 (6) Several States, including Illinois, New York,
11 and Arizona, have enacted statutes that authorize
12 post-conviction DNA testing. The Illinois statute has
13 worked particularly well, as Illinois has the most
14 post-conviction DNA exonerations in the Nation. As
15 the cases interpreting these statutes make clear,
16 post-conviction DNA testing is authorized only in
17 cases in which testing has the potential to exonerate
18 a defendant. For example, in *People v. Savory*, 722,
19 N.E.2d 220, 224 (Ill. 1999), the court, after an ex-
20 haustive examination of the Illinois post-conviction
21 DNA testing statute, concluded that “the legislature
22 intended to provide a process of total vindica-
23 tion...[I]n using the term ‘actual innocence’, the
24 legislature intended to limit the scope of the [Illinois
25 statute], allowing for scientific testing only where it

1 has the potential to exonerate a defendant.”. In Sa-
2 vory, the court denied post-conviction testing be-
3 cause “although DNA testing carries the possibility
4 of weakening the State’s original case against de-
5 fendant, it does not have the potential to prove him
6 innocent”.

7 (7) Because DNA testing is standard in pretrial
8 investigations in every State today, the issue of post-
9 conviction DNA testing involves only a narrow class
10 of cases prosecuted before DNA technology existed.
11 In the near future, the need for post-conviction
12 DNA testing will cease because of the availability of
13 pretrial testing with advanced technologies.

14 (8) In the last decade, post-conviction DNA
15 testing has exonerated innocent persons who were
16 wrongly convicted in trials that occurred before
17 DNA testing existed. In some of these cases, the
18 post-conviction DNA testing that exonerated a
19 wrongly convicted person also provided evidence that
20 led to the apprehension of the actual perpetrator.

21 (9) Under current Federal and State law, it is
22 difficult to obtain post-conviction DNA testing be-
23 cause of time limits on introducing newly discovered
24 evidence. In 38 States, motions for a new trial based
25 on newly discovered evidence must be made not later

1 than 2 years after the date of conviction. In some
2 States, such motions must be made not later than
3 30 days after the date of conviction. Under Federal
4 law, such a motion must be made not later than 3
5 years after the date of conviction. These time limits
6 are based on the fact that evidence becomes less reli-
7 able after the passage of time and, as a result, it is
8 difficult to prosecute criminal cases years after the
9 crime occurred.

10 (10) The time limits on introducing newly dis-
11 covered evidence should not bar post-conviction
12 DNA testing in appropriate cases because DNA test-
13 ing can produce accurate results on biological evi-
14 dence that is more than a decade old. Unlike other
15 evidence, the results of DNA testing are not nec-
16 essarily less reliable after the passage of time.

17 (11) Once post-conviction DNA testing is per-
18 formed, the results of such testing should be consid-
19 ered as newly discovered evidence by the courts. If
20 post-conviction testing produces exculpatory evi-
21 dence, the defendant should be allowed to move for
22 a new trial based on newly discovered evidence, not-
23 withstanding the time limits on such motions appli-
24 cable to other forms of newly discovered evidence. In
25 addition, courts should weigh motions for a new trial

1 based on post-conviction DNA testing results under
2 the established precedents for motions for a new
3 trial based on newly discovered evidence.

4 (12) In 1994, Congress passed the DNA Identi-
5 fication Act, which authorized the construction of
6 the Combined DNA Index System (referred to in
7 this section as “CODIS”). CODIS is a national
8 database that allows Federal and State law enforce-
9 ment agencies to submit, retrieve, and compare
10 DNA profiles of convicted offenders and DNA pro-
11 files of evidence from crime scenes.

12 (13) Every State has a law that requires cer-
13 tain convicted offenders to provide DNA samples.
14 These convicted offender DNA samples must be ana-
15 lyzed before the DNA profiles can be placed in the
16 CODIS database. DNA profiles of evidence from
17 crime scenes are also placed in CODIS.

18 (14) When DNA evidence is gathered from a
19 crime scene, law enforcement authorities can use
20 CODIS in 2 ways. First, authorities can compare
21 the DNA evidence to the convicted offender profiles
22 in CODIS. If there is a match between the DNA evi-
23 dence and the DNA profile of a convicted offender,
24 authorities will obtain the identity of the suspected
25 perpetrator. Second, if there is not a match in the

1 convicted offender profiles, authorities can compare
2 the DNA evidence to the DNA profiles of evidence
3 from other crime scenes. If there is a match between
4 the DNA evidence and the DNA profiles from other
5 unsolved crimes, authorities can link 2 or more
6 crimes together.

7 (15) DNA samples must be analyzed by accred-
8 ited laboratories before the samples can be placed in
9 CODIS. Unfortunately, there is a nationwide back-
10 log of approximately 700,000 unanalyzed convicted
11 offender DNA samples and unanalyzed DNA evi-
12 dence from unsolved crimes. Authorities estimate
13 that at least 600 felonies will be solved by elimi-
14 nating the backlog of convicted offender DNA sam-
15 ples alone. Congress should provide financial assist-
16 ance to the States to analyze DNA samples and evi-
17 dence and expedite their inclusion in CODIS.

18 (16) While every State has a law that requires
19 certain convicted offenders to provide DNA samples,
20 the Federal Government does not collect DNA sam-
21 ples from offenders convicted of Federal crimes,
22 United States military crimes, or crimes under the
23 law of the District of Columbia. Congress should
24 pass legislation that requires anyone convicted of a
25 felony under Federal law, United States military

1 law, or the law of the District of Columbia to pro-
 2 vide a DNA sample for inclusion in CODIS.

3 **TITLE I—POST-CONVICTION DNA** 4 **TESTING IN FEDERAL COURT**

5 **SEC. 101. POST-CONVICTION DNA TESTING.**

6 (a) FEDERAL CRIMINAL PROCEDURE.—

7 (1) IN GENERAL.—Part II of title 18, United
 8 States Code, is amended by inserting after chapter
 9 228 the following:

10 **“CHAPTER 228A—POST-CONVICTION DNA** 11 **TESTING**

“Sec.

“3600. DNA testing.

“3600A. Prohibition on destruction of biological material.

12 **“§ 3600. DNA testing**

13 “(a) MOTION.—During the 30-month period begin-
 14 ning on the date of enactment of this section, an individual
 15 serving a term of imprisonment for conviction in a court
 16 of the United States of a criminal offense (referred to in
 17 this section as the ‘applicant’) may make a written motion
 18 to the court that entered the judgment of conviction for
 19 the performance of forensic DNA testing on specified evi-
 20 dence, if that evidence—

21 “(1) was secured in relation to the investigation
 22 or prosecution that resulted in the conviction of the
 23 applicant; and

1 “(2) was not subject to the DNA testing re-
2 quested because the technology for such testing was
3 not available to the applicant at the time of trial.

4 “(b) NOTICE TO THE GOVERNMENT.—Upon receipt
5 of a motion under subsection (a), the court shall notify
6 the Government and shall afford the Government an op-
7 portunity to respond to the motion.

8 “(c) REQUIREMENTS.—In any motion under sub-
9 section (a), the applicant shall—

10 “(1) under penalty of perjury, assert the actual
11 innocence of the applicant of—

12 “(A) the offense for which the applicant
13 was convicted; or

14 “(B) uncharged conduct, if the exoneration
15 of the applicant of such conduct would result in
16 a mandatory reduction in the sentence of the
17 applicant;

18 “(2) identify the specific evidence (that was se-
19 cured in relation to the investigation or prosecution
20 that resulted in the conviction of the applicant) to
21 be tested and a theory of defense, not inconsistent
22 with previously asserted theories, that the requested
23 DNA testing would support; and

24 “(3) present a prima facie showing that—

1 “(A) the identity of the perpetrator was at
2 issue in the trial that resulted in the conviction
3 of the applicant; and

4 “(B) DNA testing of the specified evidence
5 would, assuming exculpatory results, establish
6 the actual innocence of the applicant of—

7 “(i) the offense for which the appli-
8 cant was convicted; or

9 “(ii) uncharged conduct, if the exon-
10 eration of the applicant of such conduct
11 would result in a mandatory reduction in
12 the sentence of the applicant.

13 “(d) ORDER.—

14 “(1) IN GENERAL.—Except as provided in para-
15 graph (2), the court shall order the testing requested
16 in a motion under subsection (a) under reasonable
17 conditions designed to protect the interests of the
18 Government in the integrity of the evidence and the
19 testing process, upon a determination, after review
20 of the record of the trial of the applicant, that—

21 “(A) the applicant has met the require-
22 ments of subsection (c);

23 “(B) the evidence to be tested is in the
24 possession of the Government or the court and
25 has been subject to a chain of custody sufficient

1 to establish that it has not been altered in any
2 material respect; and

3 “(C) the motion is made in a timely man-
4 ner and for the purpose of demonstrating the
5 actual innocence of the applicant and not to
6 delay the execution of sentence or administra-
7 tion of justice.

8 “(2) EXCEPTION.—The court shall not order
9 the testing requested in a motion under subsection
10 (a) if, after review of the record of the trial of the
11 applicant, the court determines that there is no rea-
12 sonable possibility that the testing will produce ex-
13 culpatory evidence that would establish the actual
14 innocence of the applicant of—

15 “(A) the offense for which the applicant
16 was convicted; or

17 “(B) uncharged conduct, if the exoneration
18 of the applicant of such conduct would result in
19 a mandatory reduction in the sentence of the
20 applicant.

21 “(3) FINAL ORDER.—An order under this sub-
22 section is a final order for purposes of section 1291
23 of title 28, United States Code.

24 “(e) TESTING PROCEDURES.—

1 “(1) SELECTION OF LABORATORY.—Any DNA
2 testing ordered under this section shall be conducted
3 by—

4 “(A) a laboratory mutually selected by the
5 Government and the applicant; or

6 “(B) if the Government and the applicant
7 are unable to agree on a laboratory, a labora-
8 tory selected by the court that ordered the test-
9 ing.

10 “(2) COSTS.—The costs of any testing ordered
11 under this section shall be paid—

12 “(A) by the applicant; or

13 “(B) in the case of an applicant who is in-
14 digent, by the court.

15 “(f) TIME LIMITATION IN CAPITAL CASES.—In any
16 case in which the applicant is sentenced to death—

17 “(1) any DNA testing ordered under this sec-
18 tion shall be completed not later than 120 days after
19 the date on which the Government responds to the
20 motion under subsection (a); and

21 “(2) the court shall order any post-testing pro-
22 cedures under subsection (g) not later than 30 days
23 after the date on which the DNA testing is com-
24 pleted.

25 “(g) POST-TESTING PROCEDURES.—

1 “(1) RESULTS UNFAVORABLE TO APPLICANT.—

2 If the DNA testing conducted under this section
3 produces inconclusive evidence or evidence that is
4 unfavorable to the applicant—

5 “(A) the court shall—

6 “(i) dismiss the application; and

7 “(ii) forward the results of the testing
8 to the appropriate parole board that would
9 have jurisdiction over a request for parole
10 by the applicant; and

11 “(B) the Government shall compare the
12 evidence to DNA evidence from unsolved crimes
13 in the Combined DNA Index System (CODIS).

14 “(2) RESULTS FAVORABLE TO APPLICANT.—If
15 the DNA testing conducted under this section pro-
16 duces exculpatory evidence—

17 “(A) the applicant may, during the 60-day
18 period beginning on the date on which the ap-
19 plicant is notified of the test results, make a
20 motion to the court that ordered the testing for
21 a new trial based on newly discovered evidence
22 under rule 33 of the Federal Rules of Criminal
23 Procedure, notwithstanding any provision of law
24 that would bar such a motion as untimely; and

1 “(B) upon receipt of a motion under sub-
 2 paragraph (A), the court that ordered the test-
 3 ing shall consider the motion under rule 33 of
 4 the Federal Rules of Criminal Procedure, not-
 5 withstanding any provision of law that would
 6 bar such consideration as untimely.

7 “(h) APPLICABILITY TO FEDERAL HABEAS COR-
 8 PUS.—The denial of post-conviction DNA testing by a
 9 Federal or State court shall not be a ground for relief in
 10 any proceeding under Federal habeas corpus.

11 “(i) COUNSEL.—The court may appoint counsel for
 12 an indigent applicant under this section.”.

13 **“§ 3600A. Prohibition on destruction of biological ma-**
 14 **terial**

15 “(a) PROHIBITION.—

16 “(1) IN GENERAL.—Notwithstanding any other
 17 provision of law, during the period described in
 18 paragraph (2), the Government shall not destroy any
 19 biological material preserved in any case in which
 20 the identity of the perpetrator was at issue during
 21 trial, if the defendant is serving a term of imprison-
 22 ment following conviction in that case.

23 “(2) PERIOD DESCRIBED.—The period de-
 24 scribed in this paragraph is the period beginning on

1 the date of enactment of this section and ending on
 2 the later of—

3 “(A) the expiration of the 30-month period
 4 beginning on that date of enactment; or

5 “(B) the date on which any proceedings
 6 under section 3600 relating to the case are
 7 completed.

8 “(b) SANCTIONS FOR INTENTIONAL VIOLATION.—
 9 The court may impose appropriate sanctions, including
 10 criminal contempt, for an intentional violation of sub-
 11 section (a).”.

12 (2) TECHNICAL AND CONFORMING AMEND-
 13 MENT.—The analysis for part II of title 18, United
 14 States Code, is amended by inserting after the item
 15 relating to section 228 the following:

“228A. Post-conviction DNA testing 3600”.

16 (b) APPLICABILITY.—The amendments made by this
 17 section shall take effect on the date of enactment of this
 18 Act and shall apply with respect to any judgment of con-
 19 viction entered before, on, or after that date of enactment.

20 **SEC. 102. REPEAL.**

21 Effective 30 months after the date of enactment of
 22 this Act, this title and the amendments made by this title
 23 are repealed.

1 **TITLE II—CONVICTED**
2 **OFFENDER DNA INDEX SYSTEM**

3 **SEC. 201. SHORT TITLE.**

4 This title may be cited as the “Convicted Offender
5 DNA Index System Support Act”.

6 **SEC. 202. ELIMINATION OF CONVICTED OFFENDER DNA**
7 **BACKLOG.**

8 (a) DEVELOPMENT OF PLAN.—

9 (1) IN GENERAL.—Not later than 45 days after
10 the date of enactment of this Act, the Director of
11 the Federal Bureau of Investigation, after consulta-
12 tion with representatives of the States and of appro-
13 priate Federal agencies, shall develop a plan to as-
14 sist eligible States in performing DNA analyses of
15 DNA samples collected from convicted offenders and
16 to pay for the costs of such post-conviction DNA
17 analyses, as necessary.

18 (2) OBJECTIVE.—The objective of the plan de-
19 veloped under paragraph (1) shall be to effectively
20 eliminate the backlog of convicted offender DNA
21 samples awaiting analysis in State or local forensic
22 laboratory storage, including samples that need to be
23 reanalyzed using upgraded methods, in an efficient,
24 expeditious manner that will provide for the entry of

1 those analyses into the combined DNA Indexing
2 System (CODIS).

3 (b) ELIGIBILITY FOR ASSISTANCE.—To be eligible to
4 receive assistance under the plan developed under sub-
5 section (a), a State shall submit to the Attorney General
6 an application, which shall include assurances that—

7 (1) not later than 1 year after the date on
8 which the application is submitted, the State will
9 allow post-conviction DNA testing in a manner con-
10 sistent with section 3600 of title 18, United States
11 Code (as added by title I of this Act); and

12 (2) prior to the repeal of chapter 228A of title
13 18, United States Code (as added by title I of this
14 Act), the State will not destroy any biological mate-
15 rial preserved in any case in which the identity of
16 the perpetrator was at issue during trial, if the de-
17 fendant is serving a term of imprisonment following
18 conviction in that case.

19 (c) PLAN CONDITIONS.—The plan developed under
20 subsection (a) shall require each of the following:

21 (1) That the Director of the Federal Bureau of
22 Investigation—

23 (A) establish requirements for the perform-
24 ance of DNA analyses by private forensic lab-
25 oratories, including quality assurance stand-

ards, state-of-the-art testing methods, and other requirements that the Director considers appropriate; and

(B) determine which private forensic laboratories satisfy the requirements established pursuant to subparagraph (A).

(2) That a laboratory may perform DNA analyses under the plan only if it is a private forensic laboratory determined under paragraph (1)(B) to satisfy the requirements established pursuant to paragraph (1)(A).

(3) That the Director of the Federal Bureau of Investigation provide assistance under the plan only pursuant to arrangements with private forensic laboratories that have been determined under paragraph (1)(B) to satisfy the requirements established pursuant to paragraph (1)(A).

(4) That under each such arrangement—

(A) the Director shall determine, for each State to which assistance is provided under the plan, the quantity of convicted offender DNA samples awaiting analysis in that State on which the laboratory shall perform DNA analysis;

1 (B) the laboratory shall perform those
2 DNA analyses; and

3 (C) the Director shall, on behalf of that
4 State, provide funding to the laboratory to
5 cover the costs of those DNA analyses.

6 (5) That each DNA sample collected and ana-
7 lyzed under the plan be accessible only—

8 (A) to criminal justice agencies for law en-
9 forcement identification purposes;

10 (B) in judicial proceedings, if otherwise ad-
11 missible pursuant to applicable statutes or
12 rules;

13 (C) for criminal defense purposes, to a de-
14 fendant, who shall have access to samples and
15 analyses performed in connection with the case
16 in which such defendant is charged; or

17 (D) for validation studies and protocol de-
18 velopment purposes, if personally identifiable
19 information is removed.

20 (d) IMPLEMENTATION OF PLAN.—Subject to the
21 availability of appropriations under subsection (e), the Di-
22 rector of the Federal Bureau of Investigation shall imple-
23 ment the plan developed under subsection (a) with eligible
24 States.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Director of the
3 Federal Bureau of Investigation to carry out this section
4 \$25,000,000 for each of fiscal years 2000 and 2001.

5 **SEC. 203. ELIMINATION OF STATE AND LOCAL UNSOLVED**
6 **CASEWORK DNA BACKLOG.**

7 (a) DEVELOPMENT OF PLAN.—

8 (1) IN GENERAL.—Not later than 45 days after
9 the date of enactment of this Act, the Attorney Gen-
10 eral, in coordination with the Director of the Federal
11 Bureau of Investigation and after consultation with
12 representatives of the States and of appropriate
13 Federal agencies, shall develop a plan to assist eligi-
14 ble States in performing DNA analyses of crime
15 scene evidence in casework for which there are no
16 suspects.

17 (2) OBJECTIVE.—The objective of the plan de-
18 veloped under paragraph (1) shall be to effectively
19 eliminate the backlog of crime scene evidence await-
20 ing DNA analysis in State or local forensic labora-
21 tory storage, including evidence that needs to be re-
22 analyzed using upgraded methods, in an efficient,
23 expeditious manner that will provide for the entry of
24 those analyses into the combined DNA Indexing
25 System (CODIS).

1 (b) ELIGIBILITY FOR ASSISTANCE.—To be eligible to
2 receive assistance under the plan developed under sub-
3 section (a), a State shall submit to the Attorney General
4 an application, which shall include assurances that—

5 (1) not later than 1 year after the date on
6 which the application is submitted, the State will
7 allow post-conviction DNA testing in a manner con-
8 sistent with section 3600 of title 18, United States
9 Code (as added by title I of this Act); and

10 (2) prior to the repeal of chapter 228A of title
11 18, United States Code (as added by title I of this
12 Act), the State will not destroy any biological mate-
13 rial preserved in any case in which the identity of
14 the perpetrator was at issue during trial, if the de-
15 fendant is serving a term of imprisonment following
16 conviction in that case.

17 (c) PLAN CONDITIONS.—The plan developed under
18 subsection (a) shall require each the following:

19 (1) That the Attorney General, in coordination
20 with the Director of the Federal Bureau of Inves-
21 tigation, establish—

22 (A) requirements for the performance of
23 DNA analyses by State and local forensic lab-
24 oratories, including quality assurance standards
25 issued by the Director, state-of-the-art testing

1 methods, and other requirements that the Di-
2 rector considers appropriate;

3 (B) procedures under which a State may
4 apply for assistance under the plan; and

5 (C) guidelines for the use by a State of
6 any assistance under the plan.

7 (2) That the Attorney General provide assist-
8 ance under the plan only by making grants to a
9 State, to be used by the chief executive officer of the
10 State, in conjunction with units of local government,
11 other States, or any combination thereof, to carry
12 out a project consistent with the plan.

13 (3) That the State, as a condition of receiving
14 assistance under the plan, shall—

15 (A) use the assistance only for the DNA
16 analysis of crime scene evidence in casework for
17 which there are no suspects; and

18 (B) provide assurances that it will submit
19 a report to the Attorney General containing a
20 summary of the activities carried out using the
21 assistance provided.

22 (4) That the Federal share of assistance pro-
23 vided under the plan with respect to a project may
24 not exceed 75 percent of the total costs of the
25 project.

1 (5) That each DNA sample collected and ana-
2 lyzed under the plan be accessible only—

3 (A) to criminal justice agencies for law en-
4 forcement identification purposes;

5 (B) in judicial proceedings, if otherwise ad-
6 missible pursuant to applicable statutes or
7 rules;

8 (C) for criminal defense purposes, to a de-
9 fendant, who shall have access to samples and
10 analyses performed in connection with the case
11 in which such defendant is charged; or

12 (D) for validation studies and protocol de-
13 velopment purposes, if personally identifiable
14 information is removed.

15 (d) IMPLEMENTATION OF PLAN.—Subject to the
16 availability of appropriations under subsection (e), the At-
17 torney General shall implement the plan developed under
18 subsection (a) with eligible States.

19 (e) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Attorney General
21 to carry out this section \$35,000,000 for each of fiscal
22 years 2000 and 2001.

1 **SEC. 204. ELIMINATION OF FBI UNSOLVED CASEWORK DNA**
2 **BACKLOG.**

3 (a) DEVELOPMENT OF PLAN.—Not later than 45
4 days after the date of enactment of this Act, the Director
5 of the Federal Bureau of Investigation shall develop a plan
6 to effectively eliminate the backlog of crime scene evidence
7 awaiting DNA analysis in forensic laboratory storage of
8 the Bureau, including evidence that needs to be reanalyzed
9 using upgraded methods, in an efficient, expeditious man-
10 ner that will provide for the entry of those analyses into
11 the combined DNA Indexing System (CODIS).

12 (b) CONDITION OF PLAN.—The plan developed under
13 subsection (a) shall require that each DNA sample col-
14 lected and analyzed under the plan be accessible only—

15 (1) to criminal justice agencies for law enforce-
16 ment identification purposes;

17 (2) in judicial proceedings, if otherwise admis-
18 sible pursuant to applicable statutes or rules;

19 (3) for criminal defense purposes, to a defend-
20 ant, who shall have access to samples and analyses
21 performed in connection with the case in which such
22 defendant is charged; or

23 (4) for validation studies and protocol develop-
24 ment purposes, if personally identifiable information
25 is removed.

1 (c) IMPLEMENTATION OF PLAN.—Subject to the
 2 availability of appropriations under subsection (d), the Di-
 3 rector of the Federal Bureau of Investigation shall imple-
 4 ment the plan developed pursuant to subsection (a).

5 (d) AUTHORIZATION OF APPROPRIATIONS.—There
 6 are authorized to be appropriated to the Director of the
 7 Federal Bureau of Investigation to carry out this section
 8 \$500,000 for fiscal year 2000, to remain available until
 9 expended.

10 **SEC. 205. MISSING PERSONS DATABASE.**

11 (a) IN GENERAL.—The Director of the Federal Bu-
 12 reau of Investigation may expand the combined DNA In-
 13 dexing System (CODIS) to include information on missing
 14 persons, including analyses of DNA samples voluntarily
 15 contributed from relatives of missing persons.

16 (b) AUTHORIZATION OF APPROPRIATIONS.—There
 17 are authorized to be appropriated to the Director of the
 18 Federal Bureau of Investigation to carry out this section
 19 \$2,835,000 for fiscal year 2000, to remain available until
 20 expended.

21 **SEC. 206. DNA IDENTIFICATION OF FEDERAL, DISTRICT OF**
 22 **COLUMBIA, AND MILITARY FELONY OFFEND-**
 23 **ERS.**

24 (a) EXPANSION OF DNA IDENTIFICATION INDEX.—
 25 Section 811(a)(2) of the Antiterrorism and Effective

1 Death Penalty Act of 1996 (28 U.S.C. 531 note) is
 2 amended to read as follows:

3 “(2) the Director of the Federal Bureau of In-
 4 vestigation shall expand the combined DNA Identi-
 5 fication System (CODIS) to include information on
 6 DNA identification records and analyses related to
 7 criminal offenses and acts of juvenile delinquency
 8 under Federal law, the Uniform Code of Military
 9 Justice, and the District of Columbia Code, in ac-
 10 cordance with section 210304 of the Violent Crime
 11 Control and Law Enforcement Act of 1994 (42
 12 U.S.C. 14132).”.

13 (b) INDEX TO FACILITATE LAW ENFORCEMENT EX-
 14 CHANGE OF DNA IDENTIFICATION INFORMATION.—Sec-
 15 tion 210304 of the Violent Crime Control and Law En-
 16 forcement Act of 1994 (42 U.S.C. 14132) is amended—

17 (1) in subsection (a)(1), by striking “persons
 18 convicted of crimes” and inserting “individuals con-
 19 victed of criminal offenses or adjudicated delinquent
 20 for acts of juvenile delinquency, including qualifying
 21 offenses (as defined in subsection (d)(1))”;

22 (2) in subsection (a)(2), by striking “and”;

23 (3) in subsection (a)(3), by striking the period
 24 and inserting “; and”;

25 (4) by adding at the end the following:

1 “(4) analyses of DNA samples voluntarily con-
 2 tributed from relatives of missing persons.”;

3 (5) in subsection (b)(2), by striking “, at reg-
 4 ular intervals of not to exceed 180 days,” and insert-
 5 ing “semiannual”; and

6 (6) by adding at the end the following:

7 “(d) INCLUSION OF DNA INFORMATION RELATING
 8 TO FELONY OFFENDERS.—

9 “(1) DEFINITIONS.—In this subsection—

10 “(A) the term ‘felony’ means a criminal of-
 11 fense punishable by a maximum term of impris-
 12 onment of more than 1 year; and

13 “(B) the term ‘qualifying offense’ means a
 14 criminal offense or act of juvenile delinquency
 15 included on the list established by the Director
 16 of the Federal Bureau of Investigation under
 17 paragraph (2)(A)(i).

18 “(2) REGULATIONS.—

19 “(A) IN GENERAL.—Not later than 90
 20 days after the date of enactment of this sub-
 21 section, and at the discretion of the Director
 22 thereafter, the Director of the Federal Bureau
 23 of Investigation, in consultation with the Direc-
 24 tor of the Bureau of Prisons, the Director of
 25 the Court Services and Offender Supervision

1 Agency for the District of Columbia or the
2 Trustee appointed under section 11232(a) of
3 the Balanced Budget Act of 1997 (as appro-
4 priate), and the Chief of Police of the Metro-
5 politan Police Department of the District of Co-
6 lumbia, shall by regulation establish—

7 “(i) a list of qualifying offenses; and

8 “(ii) standards and procedures for—

9 “(I) the analysis of DNA samples
10 collected from individuals convicted of
11 or adjudicated delinquent for a quali-
12 fying offense;

13 “(II) the inclusion in the index
14 established by this section of the DNA
15 identification records and DNA anal-
16 yses relating to the DNA samples de-
17 scribed in subclause (I); and

18 “(III) the expungement of DNA
19 identification records and DNA anal-
20 yses described in subclause (II) from
21 the index established by this section in
22 any circumstance in which the under-
23 lying conviction or adjudication for
24 the qualifying offense has been re-
25 versed or expunged.

“(B) OFFENSES INCLUDED.—The list established under subparagraph (A)(i) shall include—

“(i) each criminal offense or act of juvenile delinquency under Federal law that—

“(I) constitutes a felony; or

“(II) in the case of an act of juvenile delinquency, would, if committed by an adult, constitute a felony; and

“(ii) each criminal offense under the District of Columbia Code that would, if committed in the special maritime and territorial jurisdiction of the United States, constitute a felony.

“(3) FEDERAL OFFENDERS.—

“(A) COLLECTION OF SAMPLES FROM FEDERAL PRISONERS.—

“(i) IN GENERAL.—Beginning 180 days after the date of enactment of this subsection, the Director of the Bureau of Prisons shall collect a DNA sample from each individual in the custody of the Bureau of Prisons who has been convicted of

1 or adjudicated delinquent for a qualifying
2 offense.

3 “(ii) TIME AND MANNER.—The Direc-
4 tor of the Bureau of Prisons shall specify
5 the time and manner of collection of DNA
6 samples under this subparagraph.

7 “(B) COLLECTION OF SAMPLES FROM
8 FEDERAL OFFENDERS ON SUPERVISED RE-
9 LEASE, PAROLE, OR PROBATION.—

10 “(i) IN GENERAL.—Beginning 180
11 days after the date of enactment of this
12 subsection, the agency responsible for the
13 supervision under Federal law of an indi-
14 vidual on supervised release, parole, or pro-
15 bation (other than an individual described
16 in paragraph (4)(B)(i)) shall collect a
17 DNA sample from each individual who has
18 been convicted of or adjudicated delinquent
19 for a qualifying offense.

20 “(ii) TIME AND MANNER.—The Direc-
21 tor of the Administrative Office of the
22 United States Courts shall specify the time
23 and manner of collection of DNA samples
24 under this subparagraph.

25 “(4) DISTRICT OF COLUMBIA OFFENDERS.—

1 “(A) OFFENDERS IN CUSTODY OF DIS-
2 TRICT OF COLUMBIA.—

3 “(i) IN GENERAL.—The Government
4 of the District of Columbia may—

5 “(I) identify 1 or more categories
6 of individuals who are in the custody
7 of, or under supervision by, the Dis-
8 trict of Columbia as a result of a con-
9 viction of a qualifying offense, from
10 whom DNA samples should be col-
11 lected; and

12 “(II) collect a DNA sample from
13 each individual in any category identi-
14 fied under clause (i).

15 “(ii) DEFINITION.—In this subpara-
16 graph, the term ‘individuals in the custody
17 of, or under supervision by, the District of
18 Columbia’—

19 “(I) includes any individual in
20 the custody of, or under supervision
21 by, any agency of the Government of
22 the District of Columbia; and

23 “(II) does not include an indi-
24 vidual who is under the supervision of
25 the Director of the Court Services and

1 Offender Supervision Agency for the
2 District of Columbia or the Trustee
3 appointed under section 11232(a) of
4 the Balanced Budget Act of 1997.

5 “(B) OFFENDERS ON SUPERVISED RE-
6 LEASE, PROBATION, OR PAROLE.—

7 “(i) IN GENERAL.—Beginning 180
8 days after the date of enactment of this
9 subsection, the Director of the Court Serv-
10 ices and Offender Supervision Agency for
11 the District of Columbia, or the Trustee
12 appointed under section 11232(a) of the
13 Balanced Budget Act of 1997, as appro-
14 priate, shall collect a DNA sample from
15 each individual under the supervision of
16 the Agency or Trustee, respectively, who is
17 on supervised release, parole, or probation
18 who has been convicted of or adjudicated
19 delinquent for a qualifying offense.

20 “(ii) TIME AND MANNER.—The Direc-
21 tor or the Trustee, as appropriate, shall
22 specify the time and manner of collection
23 of DNA samples under this subparagraph.

24 “(5) WAIVER; COLLECTION PROCEDURES.—
25 Notwithstanding any other provision of this sub-

1 section, a person or agency responsible for the col-
 2 lection of DNA samples under this subsection may—

3 “(A) waive the collection of a sample from
 4 an individual under this subsection if another
 5 person or agency has collected such a sample
 6 from the individual under this subsection or
 7 subsection (e); and

8 “(B) use or authorize the use of such
 9 means as are necessary to restrain and collect
 10 a DNA sample from an individual who refuses
 11 to cooperate in the collection of the sample.

12 “(e) INCLUSION OF DNA INFORMATION RELATING
 13 TO FELONY MILITARY OFFENDERS.—

14 “(1) IN GENERAL.—Not later than 120 days
 15 after the date of enactment of this subsection, the
 16 Secretary of Defense shall prescribe regulations
 17 that—

18 “(A) specify categories of conduct punish-
 19 able under the Uniform Code of Military Jus-
 20 tice (referred to in this subsection as ‘qualifying
 21 military offenses’) that are comparable to quali-
 22 fying offenses (as defined in subsection (d)(1));
 23 and

24 “(B) set forth standards and procedures
 25 for—

1 “(i) the analysis of DNA samples col-
2 lected from individuals convicted of a
3 qualifying military offense;

4 “(ii) the inclusion in the index estab-
5 lished by this section of the DNA identi-
6 fication records and DNA analyses relating
7 to the DNA samples described in clause
8 (i); and

9 “(iii) the expungement of DNA identi-
10 fication records and DNA analyses de-
11 scribed in clause (ii) from the index estab-
12 lished by this section in any circumstance
13 in which the underlying conviction for the
14 qualifying military offense has been re-
15 versed or the underlying record has been
16 expunged for any other reason.

17 “(2) COLLECTION OF SAMPLES.—

18 “(A) IN GENERAL.—Beginning 180 days
19 after the date of enactment of this subsection,
20 the Secretary of Defense shall collect a DNA
21 sample from each individual under the jurisdic-
22 tion of the Secretary of a military department
23 who has been convicted of a qualifying military
24 offense.

1 “(B) TIME AND MANNER.—The Secretary
 2 of Defense shall specify the time and manner of
 3 collection of DNA samples under this para-
 4 graph.

5 “(3) WAIVER; COLLECTION PROCEDURES.—
 6 Notwithstanding any other provision of this sub-
 7 section, the Secretary of Defense may—

8 “(A) waive the collection of a sample from
 9 an individual under this subsection if another
 10 person or agency has collected such a sample
 11 from the individual under subsection (d); and

12 “(B) use or authorize the use of such
 13 means as are necessary to restrain and collect
 14 a DNA sample from an individual who refuses
 15 to cooperate in the collection of the sample.

16 “(f) CRIMINAL PENALTY.—

17 “(1) IN GENERAL.—An individual from whom
 18 the collection of a DNA sample is required under
 19 subsection (d) who fails to cooperate in the collection
 20 of that sample shall be—

21 “(A) guilty of a class A misdemeanor; and

22 “(B) punished in accordance with title 18,
 23 United States Code.

24 “(2) MILITARY OFFENDERS.—An individual
 25 from whom the collection of a DNA sample is re-

1 quired under subsection (e) who fails to cooperate in
 2 the collection of that sample may be punished as a
 3 court martial may direct as a violation of the Uni-
 4 form Code of Military Justice.

5 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
 6 are authorized to be appropriated—

7 “(1) to the Department of Justice to carry out
 8 subsection (d) of this section (including to reimburse
 9 the Federal judiciary for any reasonable costs in-
 10 curred in implementing such subsection, as deter-
 11 mined by the Attorney General) and section 3(d) of
 12 the National DNA Convicted Offender and Case-
 13 work Backlog Reduction Act of 1999—

14 “(A) \$6,600,000 for fiscal year 2000; and

15 “(B) such sums as may be necessary for
 16 each of fiscal years 2001 through 2004;

17 “(2) to the Court Services and Offender Super-
 18 vision Agency for the District of Columbia or the
 19 Trustee appointed under section 11232(a) of the
 20 Balanced Budget Act of 1997 (as appropriate), such
 21 sums as may be necessary for each of fiscal years
 22 2000 through 2004; and

23 “(3) to the Department of Defense to carry out
 24 subsection (e)—

25 “(A) \$600,000 for fiscal year 2000; and

1 “(B) \$300,000 for each of fiscal years
2 2001 through 2004.”.

3 (c) CONDITIONS OF RELEASE.—

4 (1) CONDITIONS OF PROBATION.—Section
5 3563(a) of title 18, United States Code, is
6 amended—

7 (A) in paragraph (7), by striking “and” at
8 the end;

9 (B) in paragraph (8), by striking the pe-
10 riod at the end and inserting “; and”; and

11 (C) by inserting after paragraph (8) the
12 following:

13 “(9) that the defendant cooperate in the collec-
14 tion of a DNA sample from the defendant if the col-
15 lection of such a sample is required pursuant to sec-
16 tion 210304 of the Violent Crime Control and Law
17 Enforcement Act of 1994 (42 U.S.C. 14132).”.

18 (2) CONDITIONS OF SUPERVISED RELEASE.—
19 Section 3583(d) of title 18, United States Code, is
20 amended by inserting before “The court shall also
21 order” the following: “The court shall order, as an
22 explicit condition of supervised release, that the de-
23 fendant cooperate in the collection of a DNA sample
24 from the defendant, if the collection of such a sam-
25 ple is required pursuant to section 210304 of the

1 Violent Crime Control and Law Enforcement Act of
2 1994 (42 U.S.C. 14132).”.

3 (3) CONDITIONS OF RELEASE GENERALLY.—If
4 the collection of a DNA sample from an individual
5 on probation, parole, or supervised release (including
6 an individual on parole pursuant to chapter 311 of
7 title 18, United States Code, as in effect on October
8 30, 1997) is required pursuant to section 210304 of
9 the Violent Crime Control and Law Enforcement
10 Act of 1994 (42 U.S.C. 14132), and the sample has
11 not otherwise been collected, the individual shall co-
12 operate in the collection of a DNA sample as a con-
13 dition of that probation, parole, or supervised re-
14 lease.

15 (d) REPORT AND EVALUATION.—Not later than 1
16 year after the date of enactment of this Act, the Attorney
17 General, acting through the Assistant Attorney General
18 for the Office of Justice Programs of the Department of
19 Justice and the Director of the Federal Bureau of Inves-
20 tigation, shall—

21 (1) conduct an evaluation to—

22 (A) identify criminal offenses, including of-
23 fenses other than qualifying offenses (as defined
24 in section 210304(d)(1) of the Violent Crime
25 Control and Law Enforcement Act of 1994 (42

1 U.S.C. 14132(d)(1)), as added by this section)
 2 that, if serving as a basis for the mandatory
 3 collection of a DNA sample under section
 4 210304 of the Violent Crime Control and Law
 5 Enforcement Act of 1994 (42 U.S.C. 14132) or
 6 under State law, are likely to yield DNA
 7 matches, and the relative degree of such likeli-
 8 hood with respect to each such offense; and

9 (B) determine the number of investigations
 10 aided (including the number of suspects
 11 cleared), and the rates of prosecution and con-
 12 viction of suspects identified through DNA
 13 matching; and

14 (2) submit to Congress a report describing the
 15 results of the evaluation under paragraph (1).

16 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

17 (1) DRUG CONTROL AND SYSTEM IMPROVE-
 18 MENT GRANTS.—Section 503(a)(12)(C) of title I of
 19 the Omnibus Crime Control and Safe Streets Act of
 20 1968 (42 U.S.C. 3753(a)(12)(C)) is amended by
 21 striking “, at regular intervals of not to exceed 180
 22 days,” and inserting “semiannual”.

23 (2) DNA IDENTIFICATION GRANTS.—Section
 24 2403(3) of title I of the Omnibus Crime Control and
 25 Safe Streets Act of 1968 (42 U.S.C. 3796kk–2(3))

1 is amended by striking “, at regular intervals not ex-
2 ceeding 180 days,” and inserting “semiannual”.

3 (3) FEDERAL BUREAU OF INVESTIGATION.—
4 Section 210305(a)(1)(A) of the Violent Crime Con-
5 trol and Law Enforcement Act of 1994 (42 U.S.C.
6 14133(a)(1)(A)) is amended by striking “, at reg-
7 ular intervals of not to exceed 180 days,” and insert-
8 ing “semiannual”.

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